
SENATE BILL NO. 288—SENATORS DENIS; AND WOODHOUSE

MARCH 16, 2015

JOINT SPONSORS: ASSEMBLYMEN ARAUJO AND SPRINKLE

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to prescribing controlled substances. (BDR 40-889)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to controlled substances; requiring each person who registers with the State Board of Pharmacy to prescribe or dispense a controlled substance to be provided access to the database of the computerized program to track prescriptions for certain controlled substances that are filled by pharmacies; requiring each person who registers with the Board to prescribe controlled substances to access the database and report certain information to the Board; requiring each person who prescribes a controlled substance to register with the Board; authorizing the Board to impose a fee for such registration; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires every person who dispenses a controlled substance within
2 this State to register biennially with the State Board of Pharmacy. (NRS 453.226)
3 **Section 4** of this bill also requires every person who prescribes a controlled
4 substance to register biennially with the Board. **Section 1** of this bill amends the
5 definition of “practitioner” to include persons who prescribe controlled substances
6 for the purposes of provisions governing controlled substances.
7 Existing law authorizes the Board to charge a reasonable fee to register and
8 control the dispensing of controlled substances and an additional fee to cover the
9 cost of the computer program to track prescriptions. (NRS 453.221) **Section 3** of
10 this bill authorizes the Board to also charge a reasonable fee relating to the
11 registration and control of prescribing of controlled substances within this State.



12 **Section 5** of this bill requires the Board to register an applicant to prescribe a
13 controlled substance in the same manner as required for an applicant that dispenses
14 a controlled substance, unless it determines that doing so would be against the
15 public interest. **Section 7** of this bill authorizes the Board to suspend or revoke a
16 registration to prescribe a controlled substance upon a finding that the registrant has
17 committed certain misconduct relating to controlled substances in the same manner
18 authorized for a registrant who dispenses a controlled substance.

19 Existing law makes it a category D felony to dispense a controlled substance
20 unless the person is registered by the Board. (NRS 453.232) **Section 6** of this bill
21 also makes it a category D felony to prescribe a controlled substance without being
22 registered.

23 Existing law requires the Board and the Investigation Division of the
24 Department of Public Safety to cooperatively develop a computerized program to
25 track each prescription for a controlled substance. Persons who prescribe or
26 dispense controlled substances can choose to access the database of the program
27 and are given access to the database after receiving a course of training developed
28 by the Board and the Division. (NRS 453.1545) **Section 2** of this bill requires any
29 person who registers with the Board to prescribe or dispense controlled substances
30 to receive such training and be given access to the database of the computer
31 program. **Section 2** also requires each person who registers with the Board to
32 prescribe controlled substances to access the database of the computer program at
33 least once every 6 months, review all prescriptions documented in the system as
34 having been issued by the person and report to the Board: (1) that the person has
35 accessed the database at least once in the past 6 months; and (2) any prescriptions
36 that are documented in the database as having been issued by the person but were
37 not actually issued by the person.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 453.126 is hereby amended to read as follows:
2 453.126 "Practitioner" means:

3 1. A physician, dentist, veterinarian or podiatric physician who
4 holds a license to practice his or her profession in this State and is
5 registered pursuant to this chapter.

6 2. An advanced practice registered nurse who holds a
7 certificate from the State Board of Pharmacy authorizing him or her
8 to dispense or to prescribe and dispense controlled substances ~~and~~
9 *and is registered pursuant to this chapter.*

10 3. A scientific investigator or a pharmacy, hospital or other
11 institution *that is* licensed, registered or otherwise authorized in this
12 State to *prescribe*, distribute, dispense, conduct research with
13 respect to, to administer, or use in teaching or chemical analysis, a
14 controlled substance in the course of professional practice or
15 research ~~and~~ *and is registered pursuant to this chapter.*

16 4. A euthanasia technician who is licensed by the Nevada State
17 Board of Veterinary Medical Examiners and registered pursuant to
18 this chapter, while he or she possesses or administers sodium
19 pentobarbital pursuant to his or her license and registration.



1 5. A physician assistant who:
2 (a) Holds a license from the Board of Medical Examiners; ~~and~~
3 (b) Is authorized by the Board to possess, administer, prescribe
4 or dispense controlled substances under the supervision of a
5 physician as required by chapter 630 of NRS ~~§~~; and
6 (c) *Is registered pursuant to this chapter.*

7 6. A physician assistant who:
8 (a) Holds a license from the State Board of Osteopathic
9 Medicine; ~~and~~
10 (b) Is authorized by the Board to possess, administer, prescribe
11 or dispense controlled substances under the supervision of an
12 osteopathic physician as required by chapter 633 of NRS ~~§~~; and
13 (c) *Is registered pursuant to this chapter.*

14 7. An optometrist who is certified by the Nevada State Board
15 of Optometry to prescribe and administer therapeutic
16 pharmaceutical agents pursuant to NRS 636.288 ~~§~~ and is
17 *registered pursuant to this chapter*, when the optometrist prescribes
18 or administers therapeutic pharmaceutical agents within the scope of
19 his or her certification.

20 **Sec. 2.** NRS 453.1545 is hereby amended to read as follows:

21 453.1545 1. The Board and the Division shall cooperatively
22 develop a computerized program to track each prescription for a
23 controlled substance listed in schedule II, III or IV that is filled by a
24 pharmacy that is registered with the Board or that is dispensed by
25 a practitioner who is registered with the Board. The program must:

26 (a) Be designed to provide information regarding:
27 (1) The inappropriate use by a patient of controlled
28 substances listed in schedules II, III and IV to pharmacies,
29 practitioners and appropriate state agencies to prevent the improper
30 or illegal use of those controlled substances; and
31 (2) Statistical data relating to the use of those controlled
32 substances that is not specific to a particular patient.

33 (b) Be administered by the Board, the Investigation Division,
34 the Division of Public and Behavioral Health of the Department and
35 various practitioners, representatives of professional associations for
36 practitioners, representatives of occupational licensing boards and
37 prosecuting attorneys selected by the Board and the Investigation
38 Division.

39 (c) Not infringe on the legal use of a controlled substance for the
40 management of severe or intractable pain.

41 (d) Include the contact information of each person who ~~elects~~
42 *to* **is provided** access **to** the database of the program pursuant to
43 ~~subsection 2.~~ **this section**, including, without limitation:

44 (1) The name of the person;
45 (2) The physical address of the person;



1 (3) The telephone number of the person; and
2 (4) If the person maintains an electronic mail address, the
3 electronic mail address of the person.

4 2. The Board shall provide Internet access to the database of
5 the program established pursuant to subsection 1 to each practitioner
6 ~~[who is authorized to write prescriptions for and each person who is~~
7 ~~authorized to dispense controlled substances listed in schedule II, III~~
8 ~~or IV] or other person~~ who:

9 (a) ~~[Elects to access the database of the program;]~~ *Is registered*
10 *by the Board pursuant to NRS 453.231;* and

11 (b) Completes the course of instruction described in subsection
12 ~~[7.] 8.~~

13 3. The Board and the Division must have access to the program
14 established pursuant to subsection 1 to identify any suspected
15 fraudulent or illegal activity related to the dispensing of controlled
16 substances.

17 4. *Each person who is registered by the Board to prescribe*
18 *controlled substances pursuant to NRS 453.231 shall access the*
19 *database of the program established pursuant to subsection 1 at*
20 *least once each 6 months, review all prescriptions documented in*
21 *the database that indicate they were issued by the person and*
22 *report to the Board:*

23 (a) *That the person has accessed the database as required by*
24 *this subsection; and*

25 (b) *Any prescriptions that are documented in the database that*
26 *incorrectly indicate they were issued by the person.*

27 5. The Board or the Division shall report any activity it
28 reasonably suspects may be fraudulent or illegal to the appropriate
29 law enforcement agency or occupational licensing board and
30 provide the law enforcement agency or occupational licensing board
31 with the relevant information obtained from the program for further
32 investigation.

33 ~~[5.] 6.~~ The Board and the Division may cooperatively enter
34 into a written agreement with an agency of any other state to
35 provide, receive or exchange information obtained by the program
36 with a program established in that state which is substantially
37 similar to the program established pursuant to subsection 1,
38 including, without limitation, providing such state access to the
39 database of the program or transmitting information to and receiving
40 information from such state. Any information provided, received or
41 exchanged as part of an agreement made pursuant to this section
42 may only be used in accordance with the provisions of this chapter.

43 ~~[6.] 7.~~ Information obtained from the program relating to a
44 practitioner or a patient is confidential and, except as otherwise



1 provided by this section and NRS 239.0115, must not be disclosed
2 to any person. That information must be disclosed:

3 (a) Upon the request of a person about whom the information
4 requested concerns or upon the request on behalf of that person by
5 his or her attorney; or

6 (b) Upon the lawful order of a court of competent jurisdiction.

7 ~~[7.]~~ **8.** The Board and the Division shall cooperatively develop
8 a course of training for persons who ~~select to access the database of~~
9 ~~the program pursuant to subsection 2]~~ *register pursuant to NRS*
10 *453.226* and require each such person to complete the course of
11 training before the person is provided with Internet access to the
12 database pursuant to subsection 2.

13 ~~[8.]~~ **9.** A practitioner who is authorized to write prescriptions
14 for and each person who is authorized to dispense controlled
15 substances listed in schedule II, III or IV who acts with reasonable
16 care when transmitting to the Board or the Division a report or
17 information required by this section or a regulation adopted pursuant
18 thereto is immune from civil and criminal liability relating to such
19 action.

20 ~~[9.]~~ **10.** The Board and the Division may apply for any
21 available grants and accept any gifts, grants or donations to assist in
22 developing and maintaining the program required by this section.

23 **Sec. 3.** NRS 453.221 is hereby amended to read as follows:

24 453.221 1. The Board may adopt regulations and charge
25 reasonable fees relating to the registration and control of the
26 *prescribing and* dispensing of controlled substances within this
27 State.

28 2. The Board may charge an additional fee for *prescribing and*
29 dispensing controlled substances included in schedules I to V,
30 inclusive, to cover the cost of developing and maintaining the
31 computerized program developed pursuant to NRS 453.1545. The
32 amount of the fee must be:

33 (a) Set so that the aggregate amount received from the fee does
34 not exceed the estimated costs of developing and maintaining the
35 program.

36 (b) Approved by the Legislature, if it is in regular session, or the
37 Interim Finance Committee, if the Legislature is not in regular
38 session.

39 **Sec. 4.** NRS 453.226 is hereby amended to read as follows:

40 453.226 1. Every practitioner or other person who *prescribes*
41 *or* dispenses any controlled substance within this State or who
42 proposes to engage in the *prescribing or* dispensing of any
43 controlled substance within this State shall obtain biennially a
44 registration issued by the Board in accordance with its regulations.



1 2. A person registered by the Board in accordance with the
2 provisions of NRS 453.011 to 453.552, inclusive, to *prescribe*,
3 dispense or conduct research with controlled substances may
4 *prescribe*, possess, dispense or conduct research with those
5 substances to the extent authorized by the registration and in
6 conformity with the other provisions of those sections.

7 3. The following persons are not required to register and may
8 lawfully possess and distribute controlled substances pursuant to the
9 provisions of NRS 453.011 to 453.552, inclusive:

10 (a) An agent or employee of a registered dispenser of a
11 controlled substance if he or she is acting in the usual course of his
12 or her business or employment;

13 (b) A common or contract carrier or warehouseman, or an
14 employee thereof, whose possession of any controlled substance is
15 in the usual course of business or employment;

16 (c) An ultimate user or a person in possession of any controlled
17 substance pursuant to a lawful order of a physician, physician
18 assistant licensed pursuant to chapter 630 or 633 of NRS, dentist,
19 advanced practice registered nurse, podiatric physician or
20 veterinarian or in lawful possession of a schedule V substance; or

21 (d) A physician who:

22 (1) Holds a locum tenens license issued by the Board of
23 Medical Examiners or a temporary license issued by the State Board
24 of Osteopathic Medicine; and

25 (2) Is registered with the Drug Enforcement Administration
26 at a location outside this State.

27 4. The Board may waive the requirement for registration of
28 certain *persons who prescribe controlled substances or* dispensers
29 if it finds it consistent with the public health and safety.

30 5. A separate registration is required at each principal place of
31 business or professional practice where the applicant *prescribes or*
32 dispenses controlled substances.

33 6. The Board may inspect the establishment of a registrant or
34 applicant for registration in accordance with the Board's regulations.

35 **Sec. 5.** NRS 453.231 is hereby amended to read as follows:

36 453.231 1. The Board shall register an applicant to *prescribe*
37 *or* dispense controlled substances included in schedules I to V,
38 inclusive, unless it determines that the issuance of that registration
39 would be inconsistent with the public interest. In determining the
40 public interest, the Board shall consider the following factors:

41 (a) Maintenance of effective controls against diversion of
42 controlled substances into other than legitimate medical, scientific,
43 research or industrial channels;

44 (b) Compliance with state and local law;



1 (c) Promotion of technical advances in the art of manufacturing
2 controlled substances and the development of new substances;

3 (d) Convictions of the applicant pursuant to laws of another
4 country or federal or state laws relating to a controlled substance;

5 (e) Past experience of the applicant in the *prescription*,
6 manufacture or distribution of controlled substances, and the
7 existence in the applicant's establishment of effective controls
8 against diversion of controlled substances into other than legitimate
9 medical, scientific research or industrial channels;

10 (f) Furnishing by the applicant of false or fraudulent material in
11 an application filed pursuant to the provisions of NRS 453.011 to
12 453.552, inclusive;

13 (g) Suspension or revocation of the applicant's federal
14 registration to manufacture, distribute, possess, administer or
15 dispense controlled substances as authorized by federal law; and

16 (h) Any other factors relevant to and consistent with the public
17 health and safety.

18 2. Registration pursuant to subsection 1 entitles a registrant to
19 *prescribe or* dispense a substance included in schedules I or II only
20 if it is specified in the registration.

21 3. A practitioner must be registered before *prescribing or*
22 dispensing a controlled substance or conducting research with
23 respect to a controlled substance included in schedules II to V,
24 inclusive. The Board need not require separate registration pursuant
25 to the provisions of NRS 453.011 to 453.552, inclusive, for
26 practitioners engaging in research with nonnarcotic controlled
27 substances included in schedules II to V, inclusive, if the registrant
28 is already registered in accordance with the provisions of NRS
29 453.011 to 453.552, inclusive, in another capacity. A practitioner
30 registered in accordance with federal law to conduct research with a
31 substance included in schedule I may conduct research with the
32 substance in this State upon furnishing the Board evidence of the
33 federal registration.

34 **Sec. 6.** NRS 453.232 is hereby amended to read as follows:

35 453.232 A person who *prescribes or* dispenses a controlled
36 substance without being registered by the Board if required by NRS
37 453.231 is guilty of a category D felony and shall be punished as
38 provided in NRS 193.130.

39 **Sec. 7.** NRS 453.236 is hereby amended to read as follows:

40 453.236 1. The Board may suspend or revoke a registration
41 pursuant to NRS 453.231 to *prescribe or* dispense a controlled
42 substance upon a finding that the registrant has:

43 (a) Furnished false or fraudulent material information in an
44 application filed pursuant to NRS 453.011 to 453.552, inclusive;



1 (b) Been convicted of a felony under a state or federal law
2 relating to a controlled substance;

3 (c) Had his or her federal registration to dispense controlled
4 substances suspended or revoked and is no longer authorized by
5 federal law to dispense those substances; or

6 (d) Committed an act that would render registration under NRS
7 453.231 inconsistent with the public interest as determined pursuant
8 to that section.

9 2. The Board may limit revocation or suspension of a
10 registration to the particular controlled substance with respect to
11 which grounds for revocation or suspension exist.

12 3. If a registration is suspended or revoked, the Board may
13 place under seal all controlled substances owned or possessed by the
14 registrant at the time of suspension or the effective date of the
15 revocation. No disposition may be made of substances under seal
16 until the time for taking an appeal has elapsed or until all appeals
17 have been concluded unless a court, upon application therefor,
18 orders the sale of perishable substances and the deposit of the
19 proceeds of the sale with the court. When a revocation becomes
20 final, the court may order the controlled substances forfeited to the
21 State.

22 4. The Board may seize or place under seal any controlled
23 substance owned or possessed by a registrant whose registration has
24 expired or who has ceased to practice or do business in the manner
25 permitted by the registration. The controlled substance must be held
26 for the benefit of the registrant or the registrant's successor in
27 interest. The Board shall notify a registrant, or the registrant's
28 successor in interest, whose controlled substance is seized or placed
29 under seal, of the procedures to be followed to secure the return of
30 the controlled substance and the conditions under which it will be
31 returned. The Board may not dispose of a controlled substance
32 seized or placed under seal under this subsection until the expiration
33 of 180 days after the controlled substance was seized or placed
34 under seal. The Board may recover costs it incurred in seizing,
35 placing under seal, maintaining custody and disposing of any
36 controlled substance under this subsection from the registrant, from
37 any proceeds obtained from the disposition of the controlled
38 substance, or from both. The Board shall pay to the registrant or the
39 registrant's successor in interest any balance of the proceeds of any
40 disposition remaining after the costs have been recovered.

41 5. The Board shall promptly notify the Drug Enforcement
42 Administration and the Division of all orders suspending or
43 revoking registration and the Division shall promptly notify the
44 Drug Enforcement Administration and the Board of all forfeitures of
45 controlled substances.



1 6. A registrant shall not employ as his or her agent or employee
2 in any premises where controlled substances are sold, dispensed,
3 stored or held for sale any person whose pharmacist's certificate has
4 been suspended or revoked.

5 **Sec. 8.** This act becomes effective:

6 1. Upon passage and approval for the purpose of performing
7 any preparatory administrative tasks necessary to carry out the
8 provisions of this act; and

9 2. On January 1, 2016, for all other purposes.

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